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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/043,414	01/10/2002	Michael A. Schultz	TWI-105	9044

7590 10/01/2003

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EXAMINER

ROBERTSON, JEFFREY

ART UNIT	PAPER NUMBER
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1712

DATE MAILED: 10/01/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/043,414

Applicant(s)

SCHULTZ ET AL.

Examiner

Jeffrey B. Robertson

Art Unit

1712

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 17 July 2003.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-33 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 1-12 and 14-33 is/are allowed.
- 6) ☒ Claim(s) 13 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on _____ is: a) ☐ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

- | | |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) Paper No(s). _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449) Paper No(s) _____ | 6) <input type="checkbox"/> Other: |

DETAILED ACTION

Specification

1. The disclosure is objected to because of the following informalities: in the specification, on page 5, lines 13-30, and page 6 line 18 through page 7, line 4, applicant sets forth that the Q represents the radicals R'_2N-R'' -, $R'_2N-R''-N-(R')-R''$ - and $R'_2N-R''-O-R''$ -. However, this requires that there be at least three Q radicals present, since Q cannot be all of the three groups simultaneously. In formula (I), however, x is a number of 1 to 20,000 and therefore there are situations where there are less than 3 Q groups present. In the formula on page 6, p is a number from 1 to about 2, q is a number of 1 to 2000 and therefore there are situations where there are less than 3 Q groups present.

Appropriate correction is required.

Claim Rejections - 35 USC § 112

2. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

3. Claim 13 is rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

For claim 13, the claims set forth that Q represents the radicals R'_2N-R'' -, $R'_2N-R''-N-(R')-R''$ - and $R'_2N-R''-O-R''$ -. However, this requires that there be at least three Q radicals present, since Q cannot be all of the three groups simultaneously. In the formula however, p is a number from 1 to about 2, q is a number of 1 to 2000 and

therefore there are situations where there are less than 3 Q groups present. It is therefore not known which of the Q groups are present in the situations where less than 3 groups are present.

Response to Arguments

4. The Declaration filed on 7/17/03 under 37 CFR 1.131 is sufficient to overcome the Yoshikawa (US 2002/0098763) reference. Applicant has effectively antedated this reference through the declaration in which an embodiment of claim 1 is shown.

Therefore the Yoshikawa reference cannot be used as prior art. As a result, the rejections under 35 U.S.C. §103 of the Yoshikawa reference in combination with Ishii reference, the Bonk reference, and the Laipply reference have also been withdrawn.

Allowable Subject Matter

5. Claims 1-12, and 14-33 are allowed.

6. Claim 13 would be allowable if rewritten or amended to overcome the rejection(s) under 35 U.S.C. 112, second paragraph, set forth in this Office action.

Conclusion

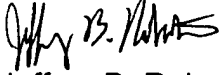
Any inquiry concerning this communication or earlier communications from the examiner should be directed to Jeffrey B. Robertson whose telephone number is (703) 306-5929. The examiner can normally be reached on Mon-Fri 7:00-3:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Robert A. Dawson can be reached on (703) 308-2340. The fax phone number for the organization where this application or proceeding is assigned is (703) 872-9306.

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Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 308-0661.


Jeffrey B. Robertson
Primary Examiner
Art Unit 1712

JBR